

Hon. Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

LINDA SCHUMACHER, *et al.*,

Plaintiffs,

V.

GOVERNOR JAY INSLEE, *et al.*,

Defendants.

Case No.: 3:18-cv-5535-MJP

**STIPULATED MOTION TO STAY
PROCEEDINGS**

NOTE DATE: OCTOBER 22, 2018

Plaintiffs Linda Schumacher, Robb Israel, Surena Israel, and Miranda Thorpe, and defendants Jay Inslee, Cheryl Strange, and Service Employees International Union Local 775 (“SEIU 775”) jointly move the Court to stay proceedings in this action (except for ruling on the State defendants’ pending motion to dismiss, Dkt. No. 23) until such time as plaintiffs, or any of them, opt out of the tentative class-wide settlement in the related case of *Routh v. Inslee*, 2:14-cv-200-MJP, Ninth Cir. Case No. 16-35749.¹

Plaintiffs filed their original complaint in this action on July 3, 2018. Dkt. 1. The case was initially assigned to the Hon. Benjamin H. Settle. Plaintiffs seek to represent a class comprising all Individual Providers (“IPs) who, pursuant to RCW 41.56.113(b)(1) and the Collective Bargaining Agreement (“CBA”) between the State and SEIU 775, had union dues and/or dues equivalent fees deducted by the State and paid to SEIU 775 without “clear, prior affirmative consent” and who objected to such deductions or union membership. Amended

¹ The lead plaintiff in *Routh* was originally Pamela Centeno and then Mary Hoffman. Ms. Centeno voluntarily dismissed her claims while the case was pending in this Court. *Routh* Dkt. No. 61. Ms. Hoffman voluntarily dismissed her appeal.

1 Complaint, Dkt. No. 7, ¶ 28. On July 27, 2018, SEIU 775 filed a Notice of Related Cases
2 regarding the *Schumacher* and *Routh* actions. Dkt. No. 9. On August 23, 2018, the Clerk
3 reassigned the *Schumacher* action to the Hon. Marsha Pechman.

4 Similar to the instant action, the *Routh* case was a putative class action challenging the
5 State's payroll deduction of SEIU 775 dues and fees from IPs. *Routh* Dkt. No. 68. This Court
6 entered final judgment in the *Routh* case in favor of the State defendants and SEIU 775 on August
7 16, 2016. *Routh* Dkt. No. 196. The *Routh* Plaintiffs appealed to the Ninth Circuit this Court's
8 denial of their original motion for class certification; denial of their renewed motion for class
9 certification; denial of their motion for summary judgment, and the grant of summary judgment
10 to defendants. *Routh* Dkt. No. 205.

11 While the *Routh* appeal was pending, the United States Supreme Court decided *Janus v.*
12 *AFSCME Council 31*, 138 S. Ct. 2448 (2018). *Janus* disposed of many of the legal issues in the
13 *Routh* appeal. Declaration of Michael C. Subit (Oct. 22, 2018) ("Subit Dec.") ¶ 2. The only issues
14 remaining in *Routh* were the claims for dues/fees refunds. *Id.* The parties in *Routh* jointly
15 requested, and the Ninth Circuit ordered, oral argument be deferred and the case designated for
16 mediation. *Id.* Mediation was ultimately set for October 10, 2018, with Teresa Wakeen serving
17 as mediator. *Id.*

18 Meanwhile the parties in the instant action initiated their Rule 26(f) conference on
19 September 20, 2018. *Id.* at ¶ 3. Instead of proceeding with the conference, they agreed to request
20 a 30-day extension of the deadlines to complete the conference and Joint Status Report pending
21 the outcome of the *Routh* mediation. *Id.* The Court granted the parties' request.

22 Following a full-day of mediation, the *Routh* parties reached a settlement of that action.
23 Subit Dec. at ¶ 4. The settlement covers all members of the original proposed *Routh* class. *Id.*
24 Once the parties have drafted a final settlement agreement, they will jointly move the Ninth
25 Circuit to remand the *Routh* matter to this Court for further proceedings to effectuate the
26 settlement. *Id.* If approved by this Court, the *Routh* settlement may cover the named plaintiffs in
27 the *Schumacher* action.

Given the settlement reached in the *Routh* action, the parties here believe that engaging in further litigation at this time would not be an efficient use of attorney and judicial resources. Accordingly, the parties jointly move this Court to stay further proceedings in this case *except for* ruling on the State defendants' pending motion to dismiss, which has been fully briefed, Dkt. No. 23, until such time as the named plaintiffs, or any of them, opt out of the *Routh* settlement and continue pursuing the instant litigation.

Respectfully Submitted this 22nd day of October 2018.

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Attorneys for Plaintiffs and the Class

It is so ORDERED this 23rd of October 2018.

Wassily Klemann

The Honorable Marsha J. Pechman
United States Senior District Court Judge

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STIPULATED MOTION FOR STAY -5
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2 **CERTIFICATE OF SERVICE**

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I hereby certify that on October 22, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel/parties of record. I hereby certify that no other parties are to receive notice.

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